

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2016-010115

12/04/2017

HON. RANDALL H. WARNER

CLERK OF THE COURT
K. Ballard
Deputy

ROBERT J BARON

ROBERT J BARON
18631 N 19TH AVE
158-288
PHOENIX AZ 85027

v.

HONORHEALTH, et al.

ANDREW S ASHWORTH

DOCKET-CIVIL-CCC

PARTIAL DISMISSAL

Before the court and fully briefed is the Individual Defendants' October 30, 2017 Motion to Partially Dismiss Second Amended Complaint. In the court's August 10, 2017 minute entry, it dismissed all claims against the Individual Defendants. It ruled that the allegations against them did not satisfy the requirements for individual liability under the Arizona Employment Protection Act ("AEPA") as interpreted by *Higgins v. Assmann Elecs., Inc.*, 217 Ariz. 289, 173 P.3d 453 (App. 2007).

The Second Amended Complaint makes further allegations in an attempt to meet those requirements. They still are not met. At this point, after multiple pleading attempts, the issue is not simply a matter of pleading. Plaintiff has set forth in detail what he alleges happened to him at HonorHealth and who did what. But none of the circumstances he alleges would give rise to individual liability under the standard enunciated in *Higgins*.

Plaintiff also re-pleads claims for negligence and intentional infliction of emotional distress, and his claim under A.R.S. § 36-450.02, all of which were dismissed in the August 10,

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2017 ruling. For the reasons stated in that ruling, those claims are dismissed. No new allegations in the Second Amended Complaint alter the court's prior ruling that Plaintiff cannot claim negligence or intentional infliction of emotional distress, and is not a "health professional" within the terms of A.R.S. § 36-450.02.

IT IS ORDERED granting the Motion. All claims against the Individual Defendants are dismissed. Plaintiff's negligence, intentional infliction of emotional distress and A.R.S. § 36-450.02 claims are dismissed.